

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

3 GEORGE T. LOVELL,

Case No. 3:18-cv-00442-RCJ-CLB

4 Plaintiff

DISMISSAL ORDER

5 v.

6 JAMES DZURENDA et al.,

7 Defendants

8 This action began with a *pro se* civil rights complaint filed under 42 U.S.C. § 1983  
9 by a former state prisoner. On October 11, the Court issued an order directing Plaintiff to  
10 file his updated address and a non-prisoner application to proceed *in forma pauperis* with  
11 this Court within thirty (30) days. (ECF No. 4.) Plaintiff filed an updated address, but he  
12 has not filed a non-prisoner application to proceed *in forma pauperis*.

13 District courts have the inherent power to control their dockets and “[i]n the  
14 exercise of that power, they may impose sanctions including, where appropriate . . .  
15 dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831  
16 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party’s failure  
17 to prosecute an action, failure to obey a court order, or failure to comply with local rules.  
18 See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (affirming dismissal for  
19 noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir.  
20 1992) (affirming dismissal for failure to comply with an order requiring amendment of  
21 complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal  
22 for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of  
23 address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (affirming  
24 dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421,  
25 1424 (9th Cir. 1986) (affirming dismissal for lack of prosecution and failure to comply with  
26 local rules).

26 In determining whether to dismiss an action for lack of prosecution, failure to obey  
27 a court order, or failure to comply with local rules, the court must consider several factors:  
28 (1) the public’s interest in expeditious resolution of litigation; (2) the court’s need to

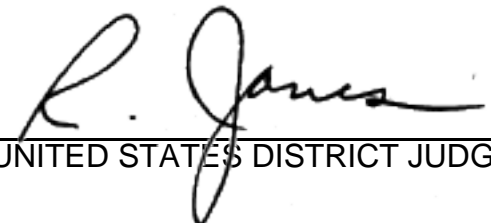
1 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring  
2 disposition of cases on their merits; and (5) the availability of less drastic alternatives.  
3 See *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at  
4 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

5 Here, the Court finds that the first two factors, the public's interest in expeditiously  
6 resolving this litigation and the Court's interest in managing the docket, weigh in favor of  
7 dismissal. The third factor, risk of prejudice to Defendants, also weighs in favor of  
8 dismissal, since a presumption of injury arises from the occurrence of unreasonable delay  
9 in filing a pleading ordered by the court or prosecuting an action. See *Anderson v. Air*  
10 *West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—public policy favoring  
11 disposition of cases on their merits—is greatly outweighed by the factors in favor of  
12 dismissal discussed herein. Finally, a court's warning to a party that his failure to obey  
13 the court's order will result in dismissal satisfies the "consideration of alternatives"  
14 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779  
15 F.2d at 1424. The Court's order requiring Plaintiff to file his updated address and file a  
16 non-prisoner application to proceed *in forma pauperis* with the Court within thirty (30)  
17 days expressly stated: "IT IS FURTHER ORDERED that, if Plaintiff fails to timely comply  
18 with this order, the Court shall dismiss this case without prejudice." (ECF No. 4 at 2.)  
19 Thus, Plaintiff had adequate warning that dismissal would result from his noncompliance  
20 with the Court's order to file a non-prisoner application to proceed *in forma pauperis* within  
21 thirty (30) days.

22 It is therefore ordered that this action is dismissed without prejudice based on  
23 Plaintiff's failure to file a non-prisoner application to proceed *in forma pauperis* in  
24 compliance with this Court's October 11, 2019, order.

25 It is further ordered that the Clerk of Court will enter judgment accordingly.

26 DATED this 23<sup>rd</sup> day of December, 2019.

27   
28 UNITED STATES DISTRICT JUDGE